

SECOND REGULAR SESSION

SENATE BILL NO. 1119

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CAUTHORN.

Read 1st time January 21, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

3264S.011

AN ACT

To amend chapter 338, RSMo, by adding thereto four new sections relating to protecting conscience rights of pharmaceutical professionals.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 338, RSMo, is amended by adding thereto four new sections, to be known as sections 338.600, 338.603, 338.606, and 338.610, to read as follows:

338.600. For the purposes of sections 338.600 to 338.610, the following terms shall mean:

(1) "Employee", any party whose services are engaged in connection with the practice of pharmacy;

(2) "Employer", any party which engages the services of a pharmaceutical professional in connection with the practice of pharmacy;

(3) "Health care facility", any public or private hospital, clinic, center, medical school, medical training institution, laboratory, or diagnostic facility, physician's office, infirmary, dispensary, ambulatory surgical center, physician organization or association, network, joint venture, and any other institution or location where health care services are provided to any person;

(4) "Pharmaceutical professional", any pharmacist, pharmacy, person under the supervision of a pharmacist, owner of a pharmacy, employee of a pharmacy, or employee of an owner of a pharmacy.

338.603. 1. No pharmaceutical professional shall be required to perform, assist, recommend, refer for or participate in any act or service in connection with a drug or device that is contrary to a good faith belief of the pharmaceutical professional that such drug or device may contribute to the death of a human being by abortion or otherwise, except to the extent that there can be demonstrated an inability to reasonably accommodate such refusal without undue hardship on the operations of the pharmacy or health care facility that is involved.

2. No civil or criminal cause of action shall accrue against a pharmaceutical professional because of a refusal to perform, assist, recommend, refer for or participate in any act or service in the circumstances described in subsection 1 of this section.

3. No board, commission, or other agency or instrumentality of this state shall deny, revoke, or suspend the license of a pharmaceutical professional, nor shall it impose any other conditions of operation or discipline because of a refusal to perform, assist, recommend, refer for or participate in any act or service in the circumstances described in subsection 1 of this section.

4. No pharmaceutical professional shall be denied or discriminated against in eligibility for or the reception of any public benefit, assistance, or privilege whatsoever, or in any employment, public or private, because of a refusal to perform, assist, recommend, refer for or participate in any act or service in the circumstances described in subsection 1 of this section.

338.606. 1. It shall be unlawful for an employer to:

(1) Fail or refuse to engage or hire any person as a pharmaceutical professional because such person indicates that he or she may exercise the right to refuse to perform, assist, recommend, refer for or participate in any act or service in connection with a drug or device that is contrary to a good faith belief of the pharmaceutical professional that such drug or device may contribute to the death of a human being by abortion or otherwise;

(2) Discharge any individual or otherwise to discriminate against any individual with respect to the terms, conditions, or privileges of engagement or employment because of a refusal to perform, assist, recommend, refer for or participate in any act or service in connection with a drug or device that is contrary to a good faith belief of the pharmaceutical professional that such drug or device may contribute to the death of a human being by abortion or otherwise;

(3) Limit, segregate, or classify employees or applicants for engagement or employment in any way which would deprive or tend to deprive any individual of opportunities to be engaged or employed, or which would otherwise tend to affect adversely an individual's status with the employer, because of the individual's refusal to perform, assist, recommend, refer for or participate in any act or service in connection with a drug or device that is contrary to a good faith belief of the pharmaceutical professional that such drug or device may contribute to the death of a human being by abortion or otherwise; or

(4) Terminate, discharge, expel, or otherwise discriminate against any pharmaceutical professional because the pharmaceutical professional has expressed opposition to any act or service in connection with a drug or device

because the pharmaceutical professional holds a good faith belief that such drug or device may contribute to the death of a human being by abortion or otherwise, or because the individual has filed a complaint, testified, or assisted in any legal or administrative proceeding in connection with such act or service or a refusal to perform, assist, recommend, refer for or participate therein.

2. It shall be unlawful for a college, university, teaching hospital, or other educational institution to:

(1) Discriminate against any person because of such person's refusal to participate in any act, service, or training in connection with a drug or device that is contrary to a good faith belief of such person that such drug or device may contribute to the death of a human being by abortion or otherwise; or

(2) Require an applicant, student, teacher, or employee thereof to pay any fees that would in whole or in part fund any activity or training in connection with a drug or device that is contrary to a good faith belief of such applicant, student, teacher, or employee that such drug or device may contribute to the death of a human being by abortion or otherwise.

338.610. Any person or entity who is injured by any unlawful act described in sections 338.603 and 338.606 may commence a civil cause of action for damages against the appropriate parties and shall recover treble damages, including damages for pain, suffering, and emotional distress, and shall further recover the costs of suit and reasonable attorney's fees.

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